the Secretary or his delegate has determined that a certain item or items of income of such controlled foreign corporation do not constitute foreign base company income—as with respect to such item or items of income the creation of the controlled foreign corporation does not have the effect of a substantial reduction of income taxes (i.e., such income will be taxed as income "effectively connected with the conduct of a trade or business within the United States" and thus such controlled foreign corporation has an outstanding tax liability due and owing to the Federal Government). Indeed, one wonders whether all "effectively connected" income couldn't be excluded from foreign base company income under the above theory, merely at the discretion of the Secretary or his delegate so as to completely nullify the relief granted by the Congress in clause (ii) of said subparagraph (D) or at least subject the availability of such relief to the discretion of the Secretary or his delegate.

The minimum distribution provisions of section 963 of the code were carefully drafted in an effort not to penalize legitimate U.S. investment abroad which seeks to repatriate—and not hoard—foreign income earned on such investments. Insofar as the provisions of clause (ii) of said paragraph (D) are susceptible to an interpretation which would penalize and/or make uncertain and confusing the status of such legitimate U.S. investments abroad, it is respectfuly requested that your Committee act to reaffirm the Congressional intent in this area. Certainly the relief provisions of section 963 of the code have proven themselves to be the guiding light for legitimate U.S. investments abroad in this highly complex and sometimes dimly lit area of our Federal tax structure. The relief provisions of section 963 of the code should not be permitted to become ineffectual or circumscribed by this Bill.

The following language is submitted for your consideration as a possible amendment to the Bill by inserting as an addition thereto immediately after said subparagraph (D) the following language:

"(E) In determining what constitutes subpart F income for purposes of (D)(ii) above, neither the provisions of section 963 of the code nor the provisions of section 954(b)(4) of the code shall be deemed to exclude any income from being characterized as subpart F income."

A second major problem area involves the unnecessarily restrictive provisions relating to an "overseas operations funding subsidiary" found in subsection (C) of section 6 of the Bill (beginning on page 68, line 9, of the June 16, 1966, printing of H.R. 13103). Thus, in compliance with requests by the President of the United States and the Secretary of Commerce to voluntarily aid in alleviating an adverse balance of payments situation, Clark Equipment Company recently organized a wholly owned domestic subsidiary for the purpose of raising necessary funds abroad to finance the expanding operations of foreign affiliated corporations. Such newly formed corporation sold $15,000,000 worth of debentures in Europe to raise the necessary investment capital. Pursuant to oral instructions from I.R.S. staff personnel, a request for necessary tax rulings stated that such newly organized subsidiary planned to invest at least 85% of the proceeds from the sale of the aforementioned debentures in stock or debt obligations of foreign corporations in which Clark owned or would own *10% or more* of such corporations' total combined voting power at the time of the investment. It is my understanding that this language was also given other U.S. corporations setting up similar foreign financing subsidiaries by personnel of the I.R.S.

Now, however, despite the verbal direction given United States taxpayers by representatives of the Internal Revenue Service, paragraph 1 of subsection (c) of section 6 of H.R. 13103 adds to the type of interest which is excluded from the special per country foreign tax credit limitation prescribed by section 904(f)(3) of the code, interest received by an "overseas operations funding subsidiary" on obligations of a "related foreign corporation." Paragraph 2 of subsection (c) of section 6 of the bill then defines the term "overseas operations funding subsidiary" as a domestic corporation which (i) is a member of an affiliated group within the meaning of section 1504 and is not the common parent corporation of such group, and (ii) *was formed AND is availed of* for the principal purpose of raising funds outside the United States through public offerings to foreign persons and of using such funds to finance the operations in foreign countries of one or more related corporations. A "related foreign corporation" is then defined as a foreign corporation owned *50% or more* by the affiliated group of which the "overseas operations funding subsidiary" is a member, either directly or through the ownership of the voting stock of *another* foreign corporation.